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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

TENET HEALTHCARE
CORPORATION, a Nevada corporation,
DAVID L. DENNIS, THOMAS B.
MACKEY, CHRISTI R. SULZBACH,
and RAYMOND L. MATHIASSEN,

Defendants.

Case No. CV 07-2144 RSWL (RZx)

**FINAL JUDGMENT AS TO
DEFENDANT THOMAS B.
MACKEY [87]**

The Securities and Exchange Commission having filed a First Amended Complaint (“Complaint”) and Defendant Thomas B. Mackey (“Defendant”) having entered a general appearance; consented to the Court’s jurisdiction over Defendant and the subject matter of this action; consented to entry of this Final Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction); waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment; and Defendant having paid \$500,000 of the

cc: Fiscal Section

1 \$2,280,000 in profits he received from the exercise of stock options, the payment
2 having been deposited into escrow accounts (the “Settlement Fund”) established
3 for the global settlement reached in the derivative action entitled *In re Tenet*
4 *Healthcare Corp. Derivative Litig.*, Lead Case No. 01098905 (Santa Barbara
5 County Superior Court), and the class action entitled *In re Tenet Healthcare Corp.*
6 *Securities Litig.*, Case No. CV-02-8462 RSWL (RZx) (C.D. Cal.), which
7 Settlement Fund is to be administered as a Qualified Settlement Fund as described
8 in Treas. Reg. § 1.468B:

9 **I.**

10 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendant
11 and Defendant’s agents, servants, employees, attorneys, and all persons in active
12 concert or participation with them who receive actual notice of this Final Judgment
13 by personal service or otherwise are permanently restrained and enjoined from
14 violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of
15 1934 (the “Exchange Act”), 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated
16 thereunder, 17 C.F.R. § 240.10b-5, by using any means or instrumentality of
17 interstate commerce, or of the mails, or of any facility of any national securities
18 exchange, in connection with the purchase or sale of any security:

- 19 (a) to employ any device, scheme, or artifice to defraud;
20 (b) to make any untrue statement of a material fact or to omit to state a
21 material fact necessary in order to make the statements made, in the
22 light of the circumstances under which they were made, not
23 misleading; or
24 (c) to engage in any act, practice, or course of business which operates or
25 would operate as a fraud or deceit upon any person.

26 **II.**

27 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
28 Defendant and Defendant’s agents, servants, employees, attorneys, and all persons

1 in active concert or participation with them who receive actual notice of this Final
2 Judgment by personal service or otherwise are permanently restrained and enjoined
3 from violating Section 17(a) of the Securities Act of 1933 (the "Securities Act"),
4 15 U.S.C. § 77q(a), in the offer or sale of any security by the use of any means or
5 instruments of transportation or communication in interstate commerce or by use
6 of the mails, directly or indirectly:

- 7 (a) to employ any device, scheme, or artifice to defraud;
- 8 (b) to obtain money or property by means of any untrue statement of a
9 material fact or any omission of a material fact necessary in order to
10 make the statements made, in light of the circumstances under which
11 they were made, not misleading; or
- 12 (c) to engage in any transaction, practice, or course of business which
13 operates or would operate as a fraud or deceit upon the purchaser.

14 **III.**

15 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
16 Defendant and Defendant's agents, servants, employees, attorneys, and all persons
17 in active concert or participation with them who receive actual notice of this Final
18 Judgment by personal service or otherwise are permanently restrained and enjoined
19 from aiding and abetting any violation of Section 13(a) of the Exchange Act, 15
20 U.S.C. § 78m(a), and Rules 12b-20, 13a-1 and 13a-13 thereunder, 17 C.F.R. §§
21 240.12b-20, 240.13a-1 & 240.13a-13, by knowingly providing substantial
22 assistance to an issuer that files annual reports with the Commission on Forms
23 10-K or quarterly reports with the Commission on Forms 10-Q that fail to contain
24 material information necessary to make the required statements in the Forms 10-K
25 or 10-Q, in light of the circumstances under which they are made, not misleading.

26 **IV.**

27 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
28 Defendant is liable for disgorgement of \$1,780,000, representing profits gained as

1 a result of the conduct alleged in the Complaint, together with prejudgment interest
2 thereon in the amount of \$251,541, totaling \$2,031,541, and a civil penalty in the
3 amount of \$500,000 pursuant to Section 20(d) of the Securities Act, 15 U.S.C. §
4 77t(d), and Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3).

5 Defendant shall satisfy this obligation by paying \$2,531,541 within ten business
6 days to the Clerk of this Court, together with a cover letter identifying Defendant
7 as a defendant in this action; setting forth the title and civil action number of this
8 action and the name of this Court; and specifying that payment is made pursuant to
9 this Final Judgment. Defendant shall simultaneously transmit photocopies of such
10 payment and letter to the Commission's counsel in this action. By making this
11 payment, Defendant relinquishes all legal and equitable right, title, and interest in
12 such funds, and no part of the funds shall be returned to Defendant. Defendant
13 shall pay post-judgment interest on any delinquent amounts pursuant to 28 U.S.C.
14 § 1961. The Clerk shall deposit the funds into an interest bearing account pursuant
15 to Fed. R. Civ. P. 67(b). These funds, together with any interest and income
16 earned thereon (collectively, the "Fund"), shall be held in the interest-bearing
17 account until further order of the Court. In accordance with Local Rule 67-2, the
18 Clerk is authorized and directed, without further order of this Court, to deduct from
19 the income earned on the money in the Fund a registry fee not to exceed the
20 amount prescribed by the Judicial Conference of the United States. The
21 Commission may by motion propose a plan to distribute the Fund subject to the
22 Court's approval. Such a plan may provide that the Fund shall be distributed
23 pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act
24 of 2002. Regardless of whether any such Fair Fund distribution is made, amounts
25 ordered to be paid as civil penalties pursuant to this Final Judgment shall be treated
26 as penalties paid to the government for all purposes, including all tax purposes. To
27 preserve the deterrent effect of the civil penalty, Defendant shall not, after offset or
28 reduction of any award of compensatory damages in any Related Investor Action

1 based on Defendant's payment of disgorgement in this action, argue that he is
2 entitled to, nor shall he further benefit by, offset or reduction of such compensatory
3 damages award by the amount of any part of Defendant's payment of a civil
4 penalty in this action ("Penalty Offset"). If the court in any Related Investor
5 Action grants such a Penalty Offset, Defendant shall, within 30 days after entry of
6 a final order granting the Penalty Offset, notify the Commission's counsel in this
7 action and pay the amount of the Penalty Offset to the United States Treasury or to
8 a Fair Fund, as the Commission directs. Such a payment shall not be deemed an
9 additional civil penalty and shall not be deemed to change the amount of the civil
10 penalty imposed in this Final Judgment. For purposes of this paragraph, a "Related
11 Investor Action" means a private damages action brought against Defendant by or
12 on behalf of one or more investors based on substantially the same facts as alleged
13 in the Complaint in this action.

14 **V.**

15 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that,
16 pursuant to Section 20(e) of the Securities Act, 15 U.S.C. § 77t(e) and Section
17 21(d)(2) of the Exchange Act, 15 U.S.C. § 78u(d)(2), Defendant is permanently
18 prohibited from acting as an officer or director of any issuer that has a class of
19 securities registered pursuant to Section 12 of the Exchange Act, 15 U.S.C. § 78l
20 or that is required to file reports pursuant to Section 15(d) of the Exchange Act, 15
21 U.S.C. § 78o(d).

22 **VI.**

23 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the
24 Consent is incorporated herein with the same force and effect as if fully set forth
25 herein, and that Defendant shall comply with all of the undertakings and
26 agreements set forth therein.

27 *

28 *

VII.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

VIII.

There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Final Judgment forthwith and without further notice.

Dated: September 17, 2009



HONORABLE RONALD S. W. LEW
SENIOR, U. S. DISTRICT COURT JUDGE